

AMENDED IN ASSEMBLY AUGUST 19, 1999

AMENDED IN ASSEMBLY JULY 7, 1999

AMENDED IN SENATE MAY 12, 1999

AMENDED IN SENATE APRIL 14, 1999

SENATE BILL

No. 1307

**Introduced by Committee on Business and Professions
(Senators Figueroa (Chair), Johannessen, Murray,
O'Connell, Polanco, and Speier)**

March 11, 1999

An act to amend Sections ~~4990.5, 4996.8~~ 101.1, 6787, 6799, 7003, 7215.6, 8016, 8024.2, 8024.3, 8024.4, 8024.6, 8025, 8031, 8516, 8516.1, 8518, 8519.5, 8556, 8617, 8652, 8656, 8662, 8674, 8674.5, 8698, 8698.1, 8698.5, 8698.6, 8780, 8792, 8805, 9884, 22250, 22251, 22253, and 22255 of, to add Sections ~~4984.9, 4992.8,~~ 6762.5, 7426.5, and 8747.5 to, and to repeal Sections 7343, 8614, and 8615 of, the Business and Professions Code, and to amend Section 803 of the Penal Code, relating to licensed professionals, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1307, as amended, Committee on Business and Professions. Licensed professionals.

(1) Existing law establishes within the Department of Consumer Affairs a State Board of Guide Dogs for the Blind, which licenses schools for the training of guide dogs for the blind. Existing law establishes, until July 1, 2002, a pilot project for the arbitration of disputes between guide dog users and

guide schools relating to the continued physical custody and use of the guide dog when the dog user is not the legal owner of the dog. Pursuant to this provision, guide dog users who are dissatisfied with decisions of schools regarding continued use of the guide dogs may appeal to the board to convene an arbitration panel. The arbitration panel includes a representative of the board who serves as chair of the panel.

This bill would provide that the board and its representative are not a party to any dispute described in that provision. The bill would also provide that each party to the dispute waives any right for subsequent judicial review by voluntarily agreeing to have the dispute resolved by the board.

(2) Existing law with respect to the regulation of tax preparers specifies certain educational requirements.

This bill would revise and recast those requirements, as specified, and, among other things, prohibit the giving of false and misleading information to the California Tax Education Council. A violation of provisions regulating tax preparers is a crime. In enlarging the scope of an existing crime the bill would impose a state-mandated local program.

(3) Existing law provides for the licensing and regulation of various professions, including barbering and cosmetology, and structural pest control, as defined, and automotive repair.

The bill would, with respect to the provisions governing barbering and cosmetology, repeal a provision that provides that an applicant who, without good cause, fails to appear for an examination after being notified of his or her eligibility for the exam, forfeits the examination fee. The bill would also authorize the board to make an administrative change with respect to the collection of fees, as specified.

The bill would expand the definition of a structural pest control field representative, as specified. The bill would revise and recast various other structural pest control provisions and requirements and make other technical changes. Among other things, the bill would revise certain inspection report requirements with respect to inspections for wood destroying pests or organisms and wood roof cleaning and treatment. The bill would also revise requirements with respect to notices of work completed and not completed. It would delete provisions providing any person, whether or not a party to a



real property transaction the right to obtain from the board copies of inspection reports, as specified. It would revise certain notices of proposed action provisions, make certain inspection report requirements applicable to field notes and notices of work completed, and revise and recast certain suspension and fine provisions.

The bill would also require an automotive repair dealer, to the extent required by the Director of Consumer Affairs, to identify members and trustees who indirectly control or conduct the business on prescribed forms. Since a violation of this provision would be a misdemeanor, the bill would create a new crime, thereby imposing a state-mandated local program.

(4) Existing law, the Professional Engineers Act and the Professional Land Surveyors' Act, provides for the registration and licensure, respectively, of professional engineers and land surveyors under the jurisdiction of the Board for Professional Engineers and Land Surveyors.

This bill would require the board to issue, upon application and payment of a specified fee to be established under an existing schedule for active licensees, a retired professional engineer's license and a retired land surveyor's license, as specified. Because this bill would provide for new fees to be deposited into the Professional Engineer's and Land Surveyor's Fund, a continuously appropriated special fund, this bill would make an appropriation.

(5) Existing law regulating professional engineers and land surveyors makes it a crime to, among other things, impersonate or use the seal of any other practitioner.

This bill would instead make it a crime for any person to impersonate or use the seal of a licensed professional engineer, or licensed professional land surveyor, respectively. By changing the definition of a crime, this bill would impose a state-mandated local program.

The bill would also make misrepresentation in the practice of land surveying a basis for license suspension or revocation.

(6) Existing law regulates the certification requirements for shorthand reporters. Exempted from certification requirements, among others, are salaried, full-time employees of a district attorney.



This bill would remove that exemption. It would prohibit the renewal of expired, suspended, or revoked certificates if the certificate holder has failed to pay monetary sanctions imposed by a court for failure to provide timely transcripts and makes the record of a court order or a certified copy of the order conclusive evidence that the sanction was imposed. This bill would also prohibit the renewal of a certificate, and would authorize disciplinary action, if a certificate holder fails to pay a penalty imposed for a failure to notify the board of a change of name or address.

Existing law establishes the fee for filing an application for each certifying examination.

This bill would add provisions setting the maximum fee for administering this examination, it would increase the maximum duplicate certificate fee from \$5 to \$10, and would increase the penalty for a failure to notify the board of a change of name or address from \$20 to \$50.

(7) Existing law, with respect to the time for commencing certain criminal actions, provides for the tolling or extension of certain time periods and provides that a limitation of time does not commence to run until certain specified offenses have been discovered, or could have reasonably been discovered.

This bill would include as one of the enumerated offenses within that provision the theft or embezzlement of the property of an elder or dependent adult by a person who is not a caretaker. This bill would restore language previously chaptered out in 1998 with respect to the addition of certain enumerated offenses within that provision.

(8) Existing law provides that provisions establishing a structural fumigation enforcement program, as specified, shall be repealed effective January 1, 2000.

This bill would extend that date of repeal until July 1, 2003, and would make related changes.

(9) This bill would make various other technical and conforming changes, as specified.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 4984.9 is added to the Business~~
2 ~~and Professions Code, to read:~~

3 ~~4984.9. A licensee or registrant shall give written~~
4 ~~notice to the board of a name change within 30 days after~~
5 ~~each change, giving both the old and new names. A copy~~
6 ~~of the legal document authorizing the name change, such~~
7 ~~as a court order or marriage certificate, shall be submitted~~
8 ~~with the notice.~~

9 ~~SEC. 2. Section 4990.5 of the Business and Professions~~
10 ~~Code is amended to read:~~

11 ~~4990.5. Each member of the board, except the~~
12 ~~members first appointed, shall be appointed for a term of~~
13 ~~four years and shall hold office until the appointment and~~
14 ~~qualification of his or her successor or until one year shall~~
15 ~~have elapsed since the expiration of the term for which~~
16 ~~he or she was appointed, whichever first occurs.~~
17 ~~Vacancies occurring shall be filled by appointment for the~~
18 ~~unexpired term.~~

19 ~~The Governor shall appoint four of the public members~~
20 ~~and the five licensed members qualified as provided in~~
21 ~~Section 4990.3 with the advice and consent of the Senate.~~
22 ~~The Senate Rules Committee and the Speaker of the~~
23 ~~Assembly shall each appoint a public member, and their~~
24 ~~initial appointment shall be made to fill, respectively, the~~
25 ~~first and second public member vacancies which occur on~~
26 ~~or after January 1, 1983.~~

27 ~~SEC. 3. Section 4992.8 is added to the Business and~~
28 ~~Professions Code, to read:~~

29 ~~4992.8. A licensee or registrant shall give written~~
30 ~~notice to the board of a name change within 30 days after~~
31 ~~each change, giving both the old and new names. A copy~~
32 ~~of the legal document authorizing the name change, such~~

1 ~~as a court order or marriage certificate, shall be submitted~~
2 ~~with the notice.~~

3 ~~SEC. 4. Section 4996.8 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~4996.8. The current renewal receipt shall be~~
6 ~~displayed near the license.~~

7 ~~SEC. 5.~~

8 *SECTION 1. Section 101.1 of the Business and*
9 *Professions Code is amended to read:*

10 101.1. (a) It is the intent of the Legislature that all
11 existing and proposed consumer-related boards or
12 categories of licensed professionals be subject to a review
13 every four years to evaluate and determine whether each
14 board has demonstrated a public need for the continued
15 existence of that board in accordance with enumerated
16 factors and standards as set forth in Division 1.2
17 (commencing with Section 473).

18 (b) (1) In the event that any board, as defined in
19 Section 477, becomes inoperative~~and~~ *or* is repealed in
20 accordance with the act that added this section, *or by*
21 *subsequent acts*, the Department of Consumer Affairs
22 shall succeed to and is vested with all the duties, powers,
23 purposes, responsibilities and jurisdiction *not otherwise*
24 *repealed or made inoperative* of that board and its
25 executive officer.

26 (2) Any provision of existing law that provides for the
27 appointment of board members and specifies the
28 qualifications and tenure of board members shall not be
29 implemented and shall have no force or effect while that
30 board is inoperative or repealed. Every reference to the
31 inoperative or repealed board, as defined in Section 477,
32 shall be deemed to be a reference to the department.

33 (3) Notwithstanding Section 107, any provision of law
34 authorizing the appointment of an executive officer by a
35 board subject to the review described in Division 1.2
36 (commencing with Section 473), or prescribing his or her
37 duties, shall not be implemented and shall have no force
38 or effect while the applicable board is inoperative or
39 repealed. Any reference to the executive officer of an

1 inoperative or repealed board shall be deemed to be a
2 reference to the director or his or her designee.

3 (c) It is the intent of the Legislature that subsequent
4 legislation to extend or repeal the inoperative date for
5 any board shall be a separate bill for that purpose.

6 *SEC. 2.* Section 6762.5 is added to the Business and
7 Professions Code, to read:

8 6762.5. (a) The board shall issue, upon application
9 and payment of the fee established by Section 6799, a
10 retired license (registration), to an engineer who has
11 been licensed by the board for a minimum of 5 years
12 within California and a minimum of 20 years within the
13 United States or territory of the United States, and who
14 holds a license that is not suspended, revoked, or
15 otherwise disciplined, or subject to pending discipline
16 under this chapter.

17 (b) The holder of a retired license issued pursuant to
18 this section shall not engage in any activity for which an
19 active engineer's license is required. An engineer holding
20 a retired license shall be permitted to use the titles
21 "retired professional engineer," "professional engineer,
22 retired," or either of those titles with the licensee's
23 branch designation inserted for the word "professional"
24 for example, "retired civil engineer" or "civil engineer,
25 retired."

26 (c) The holder of a retired license shall not be required
27 to renew that license.

28 (d) In order for the holder of a retired license issued
29 pursuant to this section to restore his or her license to
30 active status, he or she shall pass the second division
31 examination that is required for initial licensure with the
32 board.

33 ~~SEC. 6.~~

34 *SEC. 3.* Section 6787 of the Business and Professions
35 Code is amended to read:

36 6787. Every person is guilty of a misdemeanor and for
37 each offense of which he or she is convicted is punishable
38 by a fine of not more than one thousand dollars (\$1,000)
39 or by imprisonment not to exceed three months, or by
40 both that fine and imprisonment:

1 (a) Who, unless he or she is exempt from registration
2 under this chapter, practices or offers to practice civil,
3 electrical, or mechanical engineering in this state
4 according to the provisions of this chapter without legal
5 authorization.

6 (b) Who presents or attempts to file as his or her own
7 the certificate of registration of another.

8 (c) Who gives false evidence of any kind to the board,
9 or to any member thereof, in obtaining a certificate of
10 registration.

11 (d) Who impersonates or uses the seal of a licensed
12 professional engineer.

13 (e) Who uses an expired or revoked certificate of
14 registration.

15 (f) Who shall represent himself or herself as, or use the
16 title of, registered civil, electrical, or mechanical
17 engineer, or any other title whereby such person could be
18 considered as practicing or offering to practice civil,
19 electrical, or mechanical engineering in any of its
20 branches, unless he or she is correspondingly qualified by
21 registration as a civil, electrical, or mechanical engineer
22 under this chapter.

23 (g) Who, unless appropriately registered, manages, or
24 conducts as manager, proprietor, or agent, any place of
25 business from which civil, electrical, or mechanical
26 engineering work is solicited, performed, or practiced.

27 (h) Who uses the title, or any combination of that title,
28 of “professional engineer,” “licensed engineer,”
29 “registered engineer,” or the branch titles specified in
30 Section 6732, or the authority titles specified in Section
31 6763, or “engineer-in-training,” or who makes use of any
32 abbreviation of that title which might lead to the belief
33 that he or she is a registered engineer, without being
34 registered as required by this chapter.

35 (i) Who uses the title “consulting engineer” without
36 being registered as required by this chapter or without
37 being authorized to use that title pursuant to legislation
38 enacted at the 1963, 1965 or 1968 Regular Session.

39 (j) Who violates any provision of this chapter.

40 ~~SEC. 6.5.~~

1 *SEC. 4.* Section 6799 of the Business and Professions
2 Code is amended to read:

3 6799. The amount of the fees prescribed by this
4 chapter shall be fixed by the board in accordance with the
5 following schedule:

6 (a) The fee for filing each application for registration
7 as a professional engineer and each application for
8 authority level designation at not more than one hundred
9 seventy-five dollars (\$175), and for each application for
10 certification as an engineer-in-training at not more than
11 sixty dollars (\$60).

12 (b) The temporary registration fee for a professional
13 engineer at not more than 25 percent of the application
14 fee in effect on the date of application.

15 (c) The renewal fee for each branch of professional
16 engineering in which registration is held, and the renewal
17 fee for each authority level designation held, at no more
18 than the professional engineer application fee currently
19 in effect.

20 (d) The fee for a retired license at not more than 50
21 percent of the professional engineer application fee in
22 effect on the date of application.

23 (e) The delinquency fee at not more than 50 percent
24 of the renewal fee in effect on the date of reinstatement.

25 (f) The board shall establish by regulation an appeal
26 fee for examination. The regulation shall include
27 provisions for an applicant to be reimbursed the appeal
28 fee if the appeal results in passage of examination. The fee
29 charged shall be no more than the costs incurred by the
30 board.

31 (g) All other document fees are to be set by the board
32 by rule.

33 Applicants wishing to be examined in more than one
34 branch of engineering shall be required to pay the
35 additional fee for each examination after the first.

36 ~~SEC. 7.~~

37 *SEC. 5.* Section 7003 of the Business and Professions
38 Code is amended to read:

39 7003. Except as otherwise provided, an appointment
40 to fill a vacancy caused by the expiration of the term of

1 office shall be for a term of four years and shall be filled,
2 except for a vacancy in the term of a public member, by
3 a member from the same branch of the contracting
4 business as was the branch of the member whose term has
5 expired. A vacancy in the term of a public member shall
6 be filled by another public member. Each member shall
7 hold office until the appointment and qualification of his
8 or her successor or until the office is deemed to be vacant
9 pursuant to Section 1774 of the Government Code,
10 whichever first occurs.

11 Vacancies occurring in the membership of the board
12 for any cause shall be filled by appointment for the
13 balance of the unexpired term.

14 No person shall serve as a member of the board for
15 more than two consecutive terms.

16 The Governor shall appoint five of the public members,
17 including the local building official, and the six members
18 qualified as provided in Section 7002. The Senate Rules
19 Committee and the Speaker of the Assembly shall each
20 appoint a public member.

21 ~~SEC. 7.5.~~

22 *SEC. 6.* Section 7215.6 of the Business and Professions
23 Code is amended to read:

24 7215.6. (a) In order to provide a procedure for the
25 resolution of disputes between guide dog users and guide
26 dog schools relating to the continued physical custody
27 and use of a guide dog, in all cases except those in which
28 the dog user is the unconditional legal owner of the dog,
29 the following arbitration procedure shall be established as
30 a pilot project.

31 (b) This procedure establishes an arbitration panel for
32 the settlement of disputes between a guide dog user and
33 a licensed guide dog school regarding the continued use
34 of a guide dog by the user in all cases except those in
35 which the dog user is the unconditional legal owner of the
36 dog. The disputes which may be subject to this procedure
37 concern differences between the user and school over
38 whether or not a guide dog should continue to be used,
39 differences between the user and school regarding the
40 treatment of a dog by the user, and differences over



1 whether or not a user should continue to have custody of
2 a dog pending investigation of charges of abuse. It
3 specifically does not address issues such as admissions to
4 schools, training practices, or other issues relating to
5 school standards. The board and its representative are not
6 parties to any dispute described in this section.

7 (c) The licensed guide dog schools in California and
8 the board shall provide to guide dog users graduating
9 from guide dog programs in these schools a new avenue
10 for the resolution of disputes that involve continued use
11 of a guide dog, or the actual physical custody of a guide
12 dog. Guide dog users who are dissatisfied with decisions
13 of schools regarding continued use of guide dogs may
14 appeal to the board to convene an arbitration panel
15 composed of all of the following:

16 (1) One person designated by the guide dog user.

17 (2) One person designated by the licensed guide dog
18 school.

19 (3) A representative of the board who shall coordinate
20 the activities of the panel and serve as chair.

21 (d) If the guide dog user or guide dog school wishes to
22 utilize the arbitration panel, this must be stated in writing
23 to the board. The findings and decision of the arbitration
24 panel shall be final and binding. By voluntarily agreeing
25 to having a dispute resolved by the arbitration panel and
26 subject to its procedures, each party to the dispute shall
27 waive any right for subsequent judicial review.

28 (e) A licensed guide dog school that fails to comply
29 with any provision of this section shall automatically be
30 subject to a penalty of two hundred fifty dollars (\$250)
31 per day for each day in which a violation occurs. The
32 penalty shall be paid to the board. The license of a guide
33 dog school shall not be renewed until all penalties have
34 been paid.

35 The fine shall be assessed without advance hearing, but
36 the licensee may apply to the board for a hearing on the
37 issue of whether the fine should be modified or set aside.
38 This application shall be in writing and shall be received
39 by the board within 30 days after service of notice of the

1 fine. Upon receipt of this written request, the board shall
2 set the matter for hearing within 60 days.

3 (f) As a general rule, custody of the guide dog shall
4 remain with the guide dog user pending a resolution by
5 the arbitration panel. In circumstances where the
6 immediate health and safety of the guide dog user or
7 guide dog is threatened, the licensed school may take
8 custody of the dog at once. However, if the dog is
9 removed from the user's custody without the user's
10 concurrence, the school shall provide to the board the
11 evidence that caused this action to be taken at once and
12 without fail; and within five calendar days a special
13 committee of two members of the board shall make a
14 determination regarding custody of the dog pending
15 hearing by the arbitration panel.

16 (g) The arbitration panel shall decide the best means
17 to determine final resolution in each case. This shall
18 include, but is not limited to, a hearing of the matter
19 before the arbitration panel at the request of either party
20 to the dispute, an opportunity for each party in the
21 dispute to make presentations before the arbitration
22 panel, examination of the written record, or any other
23 inquiry as will best reveal the facts of the disputes. In any
24 case, the panel shall make its findings and complete its
25 examination within 45 calendar days of the date of filing
26 the request for arbitration, and a decision shall be
27 rendered within 10 calendar days of the examination.

28 All arbitration hearings shall be held at sites convenient
29 to the parties and with a view to minimizing costs. Each
30 party to the arbitration shall bear its own costs, except
31 that the arbitration panel, by unanimous agreement, may
32 modify this arrangement.

33 (h) The board may study the effectiveness of the
34 arbitration panel pilot project in expediting resolution
35 and reducing conflict in disputes between guide dog
36 users and guide dog schools and may share its findings
37 with the Legislature upon request.

38 (i) This section shall cease to be operative on July 1,
39 2002, and as of January 1, 2003, is repealed, unless a later

1 enacted statute, which is enacted before January 1, 2003,
2 deletes or extends that date.

3 ~~SEC. 8.~~

4 *SEC. 7.* Section 7343 of the Business and Professions
5 Code is repealed.

6 ~~SEC. 9.~~

7 *SEC. 8.* Section 7426.5 is added to the Business and
8 Professions Code, to read:

9 7426.5. The board may, by regulation, divide the fees
10 payable under this chapter relating to licenses into
11 separate categories based upon processing functions,
12 such as application review, examination administration,
13 or license issuance, provided that the combined fees for
14 those processing functions do not exceed the maximum
15 amount prescribed by the license category.

16 The board may, by regulation, establish procedures
17 whereby some or all of a fee submitted in connection with
18 an application for licensure would be forfeited by an
19 applicant who has withdrawn his or her application, fails
20 to appear for an examination, or is required to retake an
21 examination.

22 ~~SEC. 9.1.~~

23 *SEC. 9.* Section 8016 of the Business and Professions
24 Code is amended to read:

25 8016. No person shall engage in the practice of
26 shorthand reporting as defined in this chapter, unless that
27 person is the holder of a certificate in full force and effect
28 issued by the board. This section does not apply to a
29 salaried, full-time employee of any department or agency
30 of the state who is employed as a hearing reporter.

31 This section shall apply to all persons who are
32 appointed, on and after January 1, 1983, to the position of
33 official reporter or pro tempore official reporter of any
34 court, as defined in the Government Code.

35 *SEC. 9.2.* Section 8024.2 of the Business and
36 Professions Code is amended to read:

37 8024.2. (a) Except as otherwise provided in this
38 article, a certificate which has expired may be renewed
39 at any time within the period set forth in Section 8024.5
40 by doing all of the following:

1 (1) Apply for renewal on a form prescribed by the
2 board.

3 (2) Pay the renewal fee prescribed by this chapter.

4 (3) Notify the board whether he or she has been
5 convicted of any felony, any crime substantially related
6 to the functions and duties of a court reporter, or any
7 disciplinary action taken by any regulatory or licensing
8 board in this or any other state, subsequent to the
9 licensee's last renewal.

10 (b) If the certificate is not renewed within 30 days
11 after its expiration, the certificate holder, as a condition
12 precedent to renewal, shall also pay the delinquency fee
13 set forth in Section 163.5. Renewal under this section shall
14 be effective on the date on which the renewal fee is paid,
15 or on the date on which the delinquency fee, if any, is
16 paid, whichever last occurs. If so renewed, the certificate
17 shall continue in effect through the date provided in
18 Section 8024 which next occurs after the effective date of
19 the renewal, when it shall expire if it is not again renewed.

20 The certificate shall not be renewed if the certificate
21 holder has failed to pay monetary sanctions identified in
22 subdivision (g) of Section 8025.

23 SEC. 9.3. Section 8024.3 of the Business and
24 Professions Code is amended to read:

25 8024.3. A suspended certificate is subject to expiration
26 and shall be renewed as provided in this article, but such
27 renewal does not entitle the holder of the certificate,
28 while it remains suspended and until it is reinstated, to
29 engage in the activity to which the certificate relates, or
30 in any other activity or conduct in violation of the order
31 or judgment by which it was suspended.

32 The certificate shall not be renewed if the certificate
33 holder has failed to pay monetary sanctions identified in
34 subdivision (g) of Section 8025.

35 SEC. 9.4. Section 8024.4 of the Business and
36 Professions Code is amended to read:

37 8024.4. A revoked certificate is subject to expiration as
38 provided in this article, but it may not be renewed. If it
39 is reinstated after its expiration, the holder of the
40 certificate, as a condition precedent to its reinstatement,

1 shall pay a reinstatement fee in an amount equal to the
2 renewal fee in effect on the last regular renewal date
3 before the date on which it is reinstated, plus the
4 delinquency fee, if any, accrued at the time of its
5 revocation.

6 The certificate shall not be renewed if the certificate
7 holder has failed to pay monetary sanctions identified in
8 subdivision (g) of Section 8025.

9 SEC. 9.5. Section 8024.6 of the Business and
10 Professions Code is amended to read:

11 8024.6. (a) A certificate holder shall give written
12 notice to the board at its office in Sacramento of a name
13 change within 30 days after each change, giving both the
14 old and the new names. A copy of the legal document
15 affecting the name change, such as a court order or
16 marriage certificate, shall be submitted with the notice.

17 (b) Each certificate holder shall notify the board in
18 writing at its office in Sacramento of a change of address
19 within 30 days after each change, giving both the old and
20 the new addresses.

21 (c) A penalty as provided in this chapter shall be paid
22 by each certificate holder who fails to notify the board
23 within 30 days as specified in this section. Any certificate
24 holder to whom this penalty applies who fails to pay that
25 penalty shall not have their certificate renewed without
26 payment of that penalty, and the board may take
27 disciplinary action.

28 SEC. 9.6. Section 8025 of the Business and Professions
29 Code is amended to read:

30 8025. A certificate issued under this chapter may be
31 suspended or revoked, or certification may be denied, for
32 one or more of the following causes:

33 (a) Conviction of a crime substantially related to the
34 qualifications, functions, and duties of a certified
35 shorthand reporter. The record of conviction, or a
36 certified copy thereof, is conclusive evidence of the
37 conviction.

38 (b) Failure to notify the board of a conviction
39 described in subdivision (a), in accordance with Section
40 8024 or 8024.2.

1 (c) Fraud or misrepresentation resorted to in
2 obtaining a certificate hereunder.

3 (d) Fraud, dishonesty, corruption, willful violation of
4 duty, gross negligence or incompetency in practice, or
5 unprofessional conduct in the practice of shorthand
6 reporting.

7 “Unprofessional conduct” includes, but is not limited
8 to, acts contrary to professional standards concerning
9 confidentiality; impartiality; filing and retention of notes;
10 notifications, availability, delivery, execution and
11 certification of transcripts; and any provision of law
12 substantially related to the duties of a certified shorthand
13 reporter.

14 (e) Repeated unexcused failure, whether or not
15 willful, to transcribe notes of cases pending on appeal and
16 to file the transcripts of those notes within the time
17 required by law or to transcribe or file notes of other
18 proceedings within the time required by law or agreed by
19 contract. Violation of this subdivision shall also be
20 deemed an act endangering the public health, safety, or
21 welfare within the meaning of Section 494.

22 (f) Loss or destruction of stenographic notes, whether
23 on paper or electronic media, which prevents the
24 production of a transcript due to negligence of the
25 licensee.

26 (g) Failure to comply with, or to pay a monetary
27 sanction imposed by, any court for failure to provide
28 timely transcripts. The record of the court order, or a
29 certified copy thereof, is conclusive evidence that the
30 sanction was imposed.

31 (h) Violation of this chapter or the statutes, rules, and
32 regulations pertaining to certified shorthand reporters.

33 SEC. 9.7. Section 8031 of the Business and Professions
34 Code is amended to read:

35 8031. The amount of the fees required by this chapter
36 is that fixed by the board in accordance with the following
37 schedule:

38 (a) The fee for filing an application for each
39 examination shall be no more than forty dollars (\$40).

1 (b) The fee for examination and reexamination for the
2 written or practical part of the examination shall be in an
3 amount fixed by the board, which shall be equal to the
4 actual cost of preparing, administering, grading, and
5 analyzing the examination, but shall not exceed
6 seventy-five dollars (\$75) for each separate part, for each
7 administration.

8 (c) The initial certificate fee is an amount equal to the
9 renewal fee in effect on the last regular renewal date
10 before the date on which the certificate is issued, except
11 that, if the certificate will expire less than 180 days after
12 its issuance, then the fee is 50 percent of the renewal fee
13 in effect on the last regular renewal date before the date
14 on which the certificate is issued, or fifty dollars (\$50),
15 whichever is greater. The board may, by appropriate
16 regulation, provide for the waiver or refund of the initial
17 certificate fee where the certificate is issued less than 45
18 days before the date on which it will expire.

19 (d) By a resolution adopted by the board, a renewal
20 fee may be established in such amounts and at such times
21 as the board may deem appropriate to meet its
22 operational expenses and funding responsibilities as set
23 forth in this chapter. The renewal fee shall not be more
24 than one hundred twenty-five dollars (\$125) nor less than
25 ten dollars (\$10) annually, with the following exception:

26 Any person who is employed full time by the State of
27 California as a hearing reporter and who does not
28 otherwise render shorthand reporting services for a fee
29 shall be exempt from licensure while in state
30 employment and shall not be subject to the renewal fee
31 provisions of this subdivision until 30 days after leaving
32 state employment. The renewal fee shall, in addition to
33 the amount fixed by this subdivision, include any unpaid
34 fees required by this section plus any delinquency fee.

35 (e) The duplicate certificate fee shall be no greater
36 than ten dollars (\$10).

37 (f) The penalty for failure to notify the board of a
38 change of name or address as required by Section 8024.6
39 shall be no greater than fifty dollars (\$50).

1 SEC. 10. Section 8516 of the Business and Professions
2 Code is amended to read:

3 8516. (a) This section, and Section 8519, apply only to
4 wood destroying pests or organisms, but do not apply to
5 work conducted pursuant to Section 8516.1.

6 (b) No registered company or licensee shall
7 commence work on a contract, or sign, issue, or deliver
8 any documents expressing an opinion or statement
9 relating to the absence or presence of wood destroying
10 pests or organisms until an inspection has been made by
11 a licensed Branch 3 field representative or operator. The
12 address of each property inspected or upon which work
13 is completed shall be reported on a form prescribed by
14 the board and shall be filed with the board no later than
15 10 business days after the commencement of an
16 inspection or upon completed work.

17 Every property inspected pursuant to subdivision (b)
18 of Section 8516.1, or Section 8518, or subdivision (b) of this
19 section shall be assessed a filing fee pursuant to Section
20 8674.

21 Failure of a registered company to report and file with
22 the board the address of any property inspected or work
23 completed pursuant to Section 8516.1, Section 8518, or
24 this section are grounds for disciplinary action and shall
25 subject the registered company to a fine of not more than
26 two thousand five hundred dollars (\$2,500).

27 A written inspection report conforming to this section
28 and on a form approved by the board shall be prepared
29 and delivered to the person requesting the inspection or
30 to the person's designated agent within 10 business days
31 of the inspection, except that an inspection report
32 prepared for use by an attorney for litigation purposes is
33 not required to be reported to the board. The report shall
34 be delivered before work is commenced on any property.
35 The registered company shall retain for three years all
36 original inspection reports, filed notes, and activity forms.

37 Reports shall be made available for inspection and
38 reproduction to the executive officer of the board or his
39 or her duly authorized representative during business
40 hours. Original inspection reports or copies thereof shall

1 be submitted to the board upon request within two
2 business days. The following shall be set forth in the
3 report:

4 (1) The date of the inspection and the name of the
5 licensed field representative or operator making the
6 inspection.

7 (2) The name and address of the person or firm
8 ordering the report.

9 (3) The name and address of any person who is a party
10 in interest.

11 (4) The address or location of the property.

12 (5) A general description of the building or premises
13 inspected.

14 (6) A foundation diagram or sketch of the structure or
15 structures or portions of the structure or structures
16 inspected, indicating thereon the approximate location of
17 any infested or infected areas evident, and the parts of the
18 structure where conditions that would ordinarily subject
19 those parts to attack by wood destroying pests or
20 organisms exist.

21 (7) Information regarding the substructure,
22 foundation walls and footings, porches, patios and steps,
23 air vents, abutments, attic spaces, roof framing that
24 includes the eaves, rafters, fascias, exposed timbers,
25 exposed sheathing, ceiling joists, and attic walls, or other
26 parts subject to attack by wood destroying pests or
27 organisms. Conditions usually deemed likely to lead to
28 infestation or infection, such as earth-wood contacts,
29 excessive cellulose debris, faulty grade levels, excessive
30 moisture conditions, evidence of roof leaks, and
31 insufficient ventilation are to be reported.

32 (8) One of the following statements, as appropriate,
33 printed in bold type:

34 (A) The exterior surface of the roof was not inspected.
35 If you want the water tightness of the roof determined,
36 you should contact a roofing contractor who is licensed by
37 the Contractors' State License Board.

38 (B) The exterior surface of the roof was inspected to
39 determine whether or not wood destroying pests or
40 organisms are present.



(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

“NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company.”

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled “Reinspection” in capital letters by rubber stamp or typewritten. Each

1 reinspection shall also identify the original report by date
2 and stamp numbers.

3 After four months from an original inspection, all
4 inspections shall be original inspections and not
5 reinspections.

6 Any reinspection shall be performed for not more than
7 the price of the registered company's original inspection
8 price and shall be completed within 10 working days after
9 a reinspection has been ordered.

10 (c) At the time a report is ordered, the registered
11 company or licensee shall inform the person or entity
12 ordering the report, that a separated report is available
13 pursuant to this subdivision. If a separated report is
14 requested at the time the inspection report is ordered,
15 the registered company or licensee shall separately
16 identify on the report each recommendation for
17 corrective measures as follows:

18 (1) The infestation or infection that is evident.

19 (2) The conditions that are present that are deemed
20 likely to lead to infestation or infection.

21 If a registered company or licensee fails to inform as
22 required by this subdivision and a dispute arises, or if any
23 other dispute arises as to whether this subdivision has
24 been complied with, a separated report shall be provided
25 within 24 hours of the request but, in no event, later than
26 the next business day, and at no additional cost.

27 (d) When a corrective condition is identified, either as
28 paragraph (1) or (2) of subdivision (c), and the
29 responsible party, as negotiated between the buyer and
30 the seller, chooses not to correct those conditions, the
31 registered company or licensee shall not be liable for
32 damages resulting from a failure to correct those
33 conditions or subject to any disciplinary action by the
34 board. Nothing in this subdivision, however, shall relieve
35 a registered company or a licensee of any liability
36 resulting from negligence, fraud, dishonest dealing, other
37 violations pursuant to this chapter, or contractual
38 obligations between the registered company or licensee
39 and the responsible parties.

1 (e) The inspection report form prescribed by the
2 board shall separately identify the infestation or infection
3 that is evident and the conditions that are present that are
4 deemed likely to lead to infestation or infection. If a
5 separated form is requested, the form shall explain the
6 infestation or infection that is evident and the conditions
7 that are present that are deemed likely to lead to
8 infestation or infection and the difference between those
9 conditions. In no event, however, shall conditions
10 deemed likely to lead to infestation or infection be
11 characterized as actual “defects” or as actual “active”
12 infestations or infections or in need of correction as a
13 precondition to issuing a certification pursuant to Section
14 8519.

15 (f) The report and any contract entered into shall also
16 state specifically when any guarantee for the work is
17 made, and if so, the specific terms of the guarantee and
18 the period of time for which the guarantee shall be in
19 effect.

20 (g) Control service is defined as the regular
21 reinspection of a property after a report has been made
22 in compliance with this section and any corrections as
23 have been agreed upon have been completed. Under a
24 control service agreement a registered company shall
25 refer to the original report and contract in a manner as
26 to identify them clearly, and the report shall be assumed
27 to be a true report of conditions as originally issued,
28 except it may be modified after a control service
29 inspection. A registered company is not required to issue
30 a report as outlined in paragraphs (1) to (11), inclusive,
31 of subdivision (b) after each control service inspection. If
32 after control service inspection, no modification of the
33 original report is made in writing, then it will be assumed
34 that conditions are as originally reported. A control
35 service contract shall state specifically the particular
36 wood destroying pests or organisms and the portions of
37 the buildings or structures covered by the contract.

38 (h) A registered company or licensee may enter into
39 and maintain a control service agreement provided the
40 following requirements are met:



1 (1) The control service agreement shall be in writing,
2 signed by both parties, and shall specifically include the
3 following:

4 (A) The wood destroying pests and organisms that
5 could infest and infect the structure.

6 (B) The wood destroying pests and organisms covered
7 by the control service agreement. Any wood destroying
8 pest or organism that is not covered must be specifically
9 listed.

10 (C) The type and manner of treatment to be used to
11 correct the infestations or infections.

12 (D) The structures or buildings, or portions thereof,
13 covered by the agreement, including a statement
14 specifying whether the coverage for purposes of periodic
15 inspections is limited or full. Any exclusions from those
16 described in the original report must be specifically listed.

17 (E) A reference to the original inspection report and
18 agreement.

19 (F) The frequency of the inspections to be provided,
20 the fee to be charged for each renewal, and the duration
21 of the agreement.

22 (G) Whether the fee includes structural repairs.

23 (H) If the services provided are guaranteed, and, if so,
24 the terms of the guarantee.

25 (I) A statement that all corrections of infestations or
26 infections covered by the control service agreement shall
27 be completed within six months of discovery, unless
28 otherwise agreed to in writing by both parties.

29 (2) Inspections made pursuant to a control service
30 agreement shall be conducted by a Branch 3 licensee.
31 Section 8506.1 does not modify this provision.

32 (3) A full inspection of the property covered by the
33 control service agreement shall be conducted and a
34 report filed pursuant to subdivision (b) at least once
35 every three years from the date that the agreement was
36 entered into, unless the consumer cancels the contract
37 within three years from the date the agreement was
38 entered into.

1 (4) A written report shall be required for the
2 correction of any infestation or infection unless all of the
3 following conditions are met:

4 (A) The infestation or infection has been previously
5 reported.

6 (B) The infestation or infection is covered by the
7 control service agreement.

8 (C) There is no additional charge for correcting the
9 infestation or infection.

10 (D) Correction of the infestation or infection takes
11 place within 45 days of its discovery.

12 (E) Correction of the infestation or infection does not
13 include fumigation.

14 (5) All notice requirements pursuant to Section 8538
15 shall apply to all pesticide treatments conducted under
16 control service agreements.

17 (6) For purposes of this section, “control service
18 agreement” means any agreement, including extended
19 warranties, to have a licensee conduct over a period of
20 time regular inspections and other activities related to
21 the control or eradication of wood destroying pests and
22 organisms.

23 (i) All work recommended by a registered company,
24 where an estimate or bid for making repairs was given
25 with the original inspection report, or thereafter, shall be
26 recorded on this report or a separate work agreement and
27 shall specify a price for each recommendation. This
28 information shall be provided to the person requesting
29 the inspection, and shall be retained by the registered
30 company with the inspection report copy for three years.

31 SEC. 10.1. Section 8516.1 of the Business and
32 Professions Code is amended to read:

33 8516.1. (a) This section applies only to work
34 conducted by a wood roof cleaning and treatment
35 registered company or licensee.

36 (b) No wood roof cleaning and treatment registered
37 company or licensee shall commence work on a contract,
38 or sign, issue, or deliver any documents expressing an
39 opinion or statement relating to the absence or presence
40 of wood destroying organisms or nondecay fungi on a

1 wood shake or shingle roof until an inspection has been
2 made. All inspections performed by these registered
3 companies or licensees shall be on properties that are not
4 offered for sale, lease, or exchange, and shall be limited to
5 the wood shakes or shingles on wood shake or shingle
6 roofs and may only be performed for purposes of
7 detecting the presence or absence of wood destroying
8 organisms such as decay fungi on the wood shakes or
9 shingles and resulting decay, or nondecay fungi such as
10 mold, mildew, lichen, or moss on the wood shakes or
11 shingles.

12 (c) The address of each property inspected or upon
13 which work is completed shall be reported on a form
14 approved by the board and shall be filed with the board
15 no later than 10 business days after the commencement
16 of an inspection or upon completed work.

17 Every property inspected pursuant to subdivision (b)
18 of Section 8516, Section 8518, or subdivision (b) of this
19 section shall be assessed a filing fee pursuant to Section
20 8674.

21 Failure of a registered company to report and file with
22 the board the address of any property inspected or work
23 completed pursuant to Section 8516, Section 8518, or this
24 section are grounds for disciplinary action and shall
25 subject the registered company to a fine of not more than
26 two thousand five hundred dollars (\$2,500).

27 A written inspection report conforming to this section
28 and on a form approved by the board shall be prepared
29 and delivered to the person requesting the inspection or
30 to the person's designated agent within 10 business days
31 of the inspection. The report shall be delivered before
32 work is commenced on any property. All wood roof
33 cleaning and treatment registered companies shall retain
34 for three years all original inspection reports, field notes,
35 and activity forms.

36 Reports shall be made available for inspection and
37 reproduction to the executive officer of the board or his
38 or her duly authorized representative during business
39 hours. Original inspection reports or copies thereof shall



1 be submitted to the board upon request within two
2 business days.

3 The following items shall be set forth in the report:

4 (1) The date of the inspection and the name of the
5 licensee making the inspection.

6 (2) The name and address of the person or firm
7 ordering the report.

8 (3) The name and address of any person who is a party
9 in interest.

10 (4) The address or location of the property.

11 (5) A general description of the roof covering
12 inspected.

13 (6) A diagram or sketch of the roof inspected
14 indicating thereon the type and approximate location of
15 any infection of wood destroying organisms or nondecay
16 fungi.

17 (7) Information regarding conditions usually deemed
18 likely to lead to infection of wood destroying organisms
19 and nondecay fungi.

20 (8) Recommendations for corrective measures.

21 (9) Information regarding the wood preservative to
22 be used for control of the wood destroying organisms and
23 nondecay fungi as set forth in subdivision (a) of Section
24 8538.

25 (10) A statement printed in 10-point boldface type,
26 stating that the corrective measures will not improve the
27 water tightness of the roof and if the person or entity who
28 ordered the report wants the roof inspected for a
29 determination of water tightness, that person or entity
30 should contact a roofing contractor who is licensed by the
31 Contractors' State License Board.

32 (11) For purposes of this section and Section 8516,
33 "water tightness" means that at the time the inspection
34 was performed the roof would not, under normal climatic
35 conditions, leak.

36 (d) At the time the report is ordered, the registered
37 company or licensee shall inform the person or entity
38 ordering the report, that a separated report is available
39 pursuant to this subdivision. If a separated report is
40 requested at the time the inspection report is ordered,

1 the registered company or licensee shall separately
2 identify on the report each recommendation for
3 corrective measures as follows:

4 (1) The infection that is evident.

5 (2) The conditions that are present that are deemed
6 likely to lead to infection of wood destroying organisms
7 such as decay fungus.

8 (3) The conditions that are present that are nondecay
9 fungi such as mold, mildew, lichen, or moss.

10 If the registered company or licensee fails to comply
11 with the requirements of this subdivision and a dispute
12 arises, or if any dispute arises as to whether this
13 subdivision has been complied with, a separate report
14 shall be provided to the person or entity ordering the
15 report within 24 hours of that request, but in no event
16 later than the next business day, and at no additional cost.

17 (e) The report and any contract entered into shall also
18 state specifically when any guarantee for the work is
19 made, and if so, the specific terms of the guarantee and
20 the period of time for which the guarantee shall take
21 effect.

22 (f) All work recommended by the registered
23 company, where an estimate or bid for making repairs
24 was given with the original inspection report, or
25 thereafter, shall be recorded on that report or a separate
26 work agreement and shall specify a price for each
27 recommendation. This information shall be provided to
28 the person requesting the inspection, and shall be
29 retained by the registered company with the inspection
30 report copy for two years.

31 (g) All wood roof cleaning and treatment registered
32 companies shall possess a current roofing contractor's
33 license issued by the Contractors' State License Board.

34 SEC. 10.2. Section 8518 of the Business and
35 Professions Code is amended to read:

36 8518. When a registered company completes work
37 under a contract, it shall prepare, on a form prescribed by
38 the board, a notice of work completed and not completed,
39 and shall furnish that notice to the owner of the property
40 or the owner's agent within 10 working days after

1 completing the work. The notice shall include a
2 statement of the cost of the completed work and
3 estimated cost of work not completed.

4 The address of each property inspected or upon which
5 work was completed shall be reported on a form
6 prescribed by the board and shall be filed with the board
7 no later than 10 working days after completed work.

8 Every property upon which work is completed shall be
9 assessed a filing fee pursuant to Section 8674.

10 Failure of a registered company to report and file with
11 the board the address of any property upon which work
12 was completed pursuant to subdivision (b) of Section
13 8516, subdivision (b) of Section 8516.1, or Section 8518 are
14 grounds for disciplinary action and shall subject the
15 registered company to a fine of not more than two
16 thousand five hundred dollars (\$2,500).

17 The registered company shall retain for three years all
18 original notices of work completed, work not completed,
19 and activity forms.

20 Notices of work completed and not completed shall be
21 made available for inspection and reproduction to the
22 executive officer of the board or his or her duly
23 authorized representative during business hours.
24 Original notices of work completed or not completed or
25 copies thereof shall be submitted to the board upon
26 request within two business days.

27 SEC. 10.3. Section 8519.5 of the Business and
28 Professions Code is amended to read:

29 8519.5. (a) After an inspection report has been
30 prepared by a Branch 3 registered company pursuant to
31 Section 8516, which discloses a wood destroying pest that
32 can be eradicated by fumigation, and the fumigation has
33 been duly performed by a Branch 1 registered company,
34 the Branch 1 registered company, on a company
35 document that identifies the licensee performing the
36 fumigation and the name and address of the registered
37 company, shall issue the following certification: "This is to
38 certify that the property located at _____ (address)
39 was fumigated on _____ (date) for the extermination
40 of _____ (target pest)." This certification shall be

1 issued to the person ordering the fumigation and to the
2 registered company that prepared the inspection report
3 within five working days after completing the
4 fumigation.

5 (1) Where a consumer has authorized a Branch 3
6 registered company to subcontract the fumigation to a
7 Branch 1 registered company, a copy of the certification
8 shall accompany any reinspection report, notice of work
9 completed pursuant to Section 8518, or any certification
10 issued by the Branch 3 company.

11 (2) Where the consumer has elected to contract
12 directly with a Branch 1 registered company to perform
13 a fumigation, the distribution of any documents pertinent
14 to the fumigation shall be the responsibility of the Branch
15 1 registered company.

16 (b) In the event of a failed fumigation performed by
17 a Branch 1 registered company that has contracted
18 directly with the consumer, the Branch 1 registered
19 company shall do all of the following:

20 (1) Verify the need for a refumigation.

21 (2) Maintain with the original inspection report, on a
22 company document, all of the following:

23 (A) The name of the current owner of the structure
24 fumigated, the address of the structure, and the date of
25 the failed fumigation.

26 (B) An explanation of the need for refumigation.

27 (C) The proposed date for the refumigation.

28 (3) Within five working days after the completion of
29 the refumigation, the Branch 1 registered company, on a
30 company document, shall file with the current owner,
31 and the Branch 3 registered company whose report was
32 used for the original fumigation, information regarding
33 the completion of the refumigation, a new certification,
34 and any warranty or guarantee.

35 SEC. 10.4. Section 8556 of the Business and
36 Professions Code is amended to read:

37 8556. (a) Licensed contractors acting in their
38 capacity as such, may remove and replace any structure
39 or portions of a structure damaged by wood destroying
40 pests or organisms if that work is incidental to other work

1 being performed on the structure involved or if that work
2 has been identified by a structural pest control inspection
3 report. Licensed contractors acting in their capacity as
4 such may apply wood preservatives directly to end cuts
5 and drill holes of pressure treated wood, and to
6 foundation wood as required by building codes, as well as
7 to fencing and decking, by brush, dip, or spray method
8 and need not obtain a license under this chapter for
9 performance of that work, provided a disclosure in the
10 following form is submitted to the customer in writing:
11 “The application of a wood preservative is intended to
12 prevent the establishment and flourishing of organisms
13 which can deteriorate wood. If you suspect pest
14 infestation or infection, contact a registered structural
15 pest control company prior to the application of a wood
16 preservative.”

17 These exemptions do not authorize the performance of
18 any other acts defined in Section 8505.

19 (b) A licensed contractor may contract for the
20 performance of any soil treatment pest control work to
21 eliminate, exterminate, control, or prevent infestations or
22 infections of pests or organisms in the ground beneath or
23 adjacent to any existing building or structure or in or
24 upon any site upon which any building or structure is to
25 be constructed, but the actual performance of any such
26 work must be done by a registered structural pest control
27 company.

28 SEC. 10.5. Section 8614 of the Business and
29 Professions Code is repealed.

30 SEC. 10.6. Section 8615 of the Business and
31 Professions Code is repealed.

32 SEC. 10.7. Section 8617 of the Business and
33 Professions Code is amended to read:

34 8617. (a) The board or county agricultural
35 commissioners, when acting pursuant to Section 8616.4,
36 may suspend the right of a structural pest control licensee
37 or registered company to work in a county for up to three
38 working days or, for a licensee, registered company, or an
39 unlicensed individual acting as a licensee, may levy an
40 administrative fine up to one thousand dollars (\$1,000)

1 for each violation of this chapter, or any regulations
 2 adopted pursuant to this chapter, or Chapter 2
 3 (commencing with Section 12751), Chapter 3
 4 (commencing with Section 14001), Chapter 3.5
 5 (commencing with Section 14101), or Chapter 7
 6 (commencing with Section 15201) of Division 7 of the
 7 Food and Agricultural Code, or any regulations adopted
 8 pursuant to those chapters, relating to economic poisons.
 9 Fines collected shall be paid to the Education and
 10 Enforcement Account in the Structural Pest Control
 11 Education and Enforcement Fund. Suspension may
 12 include all or part of the registered company's business
 13 within the county based on the nature of the violation, but
 14 shall, whenever possible, be restricted to that portion of
 15 a registered company's business in a county that was in
 16 violation.

17 (b) Before a suspension action is taken or a fine levied,
 18 the person charged with the violation shall be provided
 19 a written notice of the proposed action, including the
 20 nature of the violation and the amount of the proposed
 21 fine or suspension. The notice of proposed action shall
 22 inform the person charged with the violation that if he or
 23 she desires a hearing before the commissioner issuing the
 24 proposed action to contest the finding of a violation, that
 25 hearing shall be requested by written notice to the
 26 commissioner within 20 days of the date of issuance of the
 27 written notice of proposed action.

28 A notice of the proposed action that is sent by certified
 29 mail to the last known address of the person charged shall
 30 be considered received even if delivery is refused or the
 31 notice is not accepted at that address.

32 If a hearing is requested, notice of the time and place
 33 of the hearing shall be given at least 10 days before the
 34 date set for the hearing. At the hearing, the person shall
 35 be given an opportunity to review the commissioner's
 36 evidence and a right to present evidence on his or her
 37 own behalf. If a hearing is not requested within the
 38 prescribed time, the commissioner may take the action
 39 proposed without a hearing.

1 (c) If the person upon whom the commissioner
2 imposed a fine or suspension requested and appeared at
3 a hearing before the commissioner, the person may
4 appeal the commissioner's decision to the Disciplinary
5 Review Committee and shall be subject to the procedures
6 in Section 8662.

7 (d) If a suspension or fine is ordered, it may not take
8 effect until 20 days after the date of the commissioner's
9 decision if no appeal is filed. If an appeal pursuant to
10 Section 8662 is filed, the commissioner's order shall be
11 stayed until 20 days after the Disciplinary Review
12 Committee has ruled on the appeal.

13 (e) Failure of a licensee or registered company to pay
14 a fine within 30 days of the date of assessment or to comply
15 with the order of suspension, unless the citation is being
16 appealed, may result in disciplinary action being taken by
17 the board.

18 Where a citation containing a fine is issued to a licensee
19 and it is not contested or the time to appeal the citation
20 has expired and the fine is not paid, the full amount of the
21 assessed fine shall be added to the fee for renewal of that
22 license. A license shall not be renewed without payment
23 of the renewal fee and fine.

24 Where a citation containing a fine is issued to a
25 registered company and it is not contested or the time to
26 appeal the citation has expired and the fine is not paid, the
27 board shall not sell to the registered company any
28 inspection stamps, notice of completion stamps, or
29 pesticide use stamps until the assessed fine has been paid.

30 (f) Once final action pursuant to this section is taken,
31 no other administrative or civil action may be taken by
32 any state governmental agency for the same violation.
33 However, action taken pursuant to this section may be
34 used by the board as evidence of prior discipline, and
35 multiple local actions may be the basis for statewide
36 disciplinary action by the board pursuant to Section 8620.
37 A certified copy of the order of suspension or fine issued
38 pursuant to this section or Section 8662 shall constitute
39 conclusive evidence of the occurrence of the violation.

(g) Where the board is the party issuing the notice of proposed action to suspend or impose a fine pursuant to subdivision (a) of this section, “commissioner” as used in subdivisions (b), (c), and (d) includes the board’s registrar.

SEC. 10.8. Section 8652 of the Business and Professions Code is amended to read:

8652. Failure of a registered company to make and keep all inspection reports, field notes, contracts, documents, notices of work completed, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the executive officer of the board or his or her duly authorized representative during business hours.

SEC. 10.85. Section 8656 of the Business and Professions Code is amended to read:

8656. In addition to the remedies provided for in Section 125.9, when the licensee who is a registered company has failed to pay the fine assessed pursuant to a citation within 30 days of the date of assessment, unless the citation is being appealed, the board shall not sell to the registered company any pesticide use stamps until the assessed fine has been paid.

SEC. 10.9. Section 8662 of the Business and Professions Code is amended to read:

8662. (a) Whenever the right of a structural pest control licensee or registered company to make pesticide applications is to be suspended or the licensee, registered company, or unlicensed individual is to be fined pursuant to Section 8617, and if the person upon whom the commissioner imposed a fine or suspension requested and appeared at a hearing before the commissioner in accordance with Section 8617, the party to be suspended or fined may appeal to the Disciplinary Review Committee by filing a written appeal with the committee within 10 days of receipt of the fine or suspension order.

(b) The following procedures shall apply to the appeal:

1 (1) The appeal shall be in writing and signed by the
2 appellant or his or her or its authorized agent, state the
3 grounds for the appeal, and include a copy of the
4 commissioner's decision. The appellant shall file a copy of
5 the appeal with the commissioner at the same time it is
6 filed with the committee.

7 (2) Any party may, at the time of filing the appeal or
8 within 10 days thereafter, or at a later time prescribed by
9 the committee or its designee, present the record of the
10 hearing, including written evidence that was submitted
11 at the hearing and written argument to the committee
12 stating the grounds for affirming, modifying, or reversing
13 the commissioner's decision.

14 (3) The committee or its designee may grant oral
15 argument upon application made at the time written
16 arguments are filed. If an application to present an oral
17 argument is granted, written notice of the time and place
18 for the oral argument shall be given each party at least 10
19 days before the date set therefor. The times may be
20 altered by mutual agreement of the appellant, the
21 commissioner, and the committee.

22 (4) At any time written evidence is submitted to the
23 committee, a copy shall be immediately provided to the
24 other party.

25 (5) The committee shall decide the appeal on the
26 record of the hearing, including the written evidence and
27 the written argument described in paragraph (2) that the
28 committee may have received. If the committee finds
29 substantial evidence in the record to support the
30 commissioner's decision, the committee shall affirm the
31 decision.

32 (6) The committee shall render its written decision
33 within 45 days of the date of appeal or within 15 days from
34 the date of oral arguments. If the committee does not
35 reach a decision in the time required in this subdivision,
36 the order issued pursuant to Section 8617 shall be null and
37 void.

38 (7) On an appeal pursuant to this section, the
39 committee may sustain, modify by reducing the time of
40 suspension or the amount of the fine levied, or reverse the

1 decision. A copy of the committee's decision shall be
2 delivered or mailed to each party.

3 (8) Review of the decision of the committee may be
4 sought by the licensee, registered company, or
5 unlicensed individual pursuant to Section 1094.5 of the
6 Code of Civil Procedure.

7 SEC. 10.10. Section 8674 of the Business and
8 Professions Code is amended to read:

9 8674. The fees prescribed by this chapter are the
10 following:

11 (a) A duplicate license fee of not more than two dollars
12 (\$2).

13 (b) A fee for filing a change of name of a licensee of not
14 more than two dollars (\$2).

15 (c) An operator's examination fee of not more than
16 twenty-five dollars (\$25).

17 (d) An operator's license fee of not more than one
18 hundred fifty dollars (\$150).

19 (e) An operator's license renewal fee of not more than
20 one hundred fifty dollars (\$150).

21 (f) A company registration fee of not more than one
22 hundred twenty dollars (\$120).

23 (g) A branch office registration fee of not more than
24 sixty dollars (\$60).

25 (h) A field representative's examination fee of not
26 more than fifteen dollars (\$15).

27 (i) A field representative's license fee of not more than
28 forty-five dollars (\$45).

29 (j) A field representative's license renewal fee of not
30 more than forty-five dollars (\$45).

31 (k) An applicator's examination fee of not more than
32 fifteen dollars (\$15).

33 (l) An applicator's license fee of not more than fifty
34 dollars (\$50).

35 (m) An applicator's license renewal fee of not more
36 than fifty dollars (\$50).

37 (n) An activity form fee, per property address, of not
38 more than three dollars (\$3).

39 (o) A fee for certifying a copy of an activity form of not
40 more than three dollars (\$3).

1 (p) A fee for filing a change of a registered company's
2 name, principal office address, or branch office address,
3 qualifying manager, or the names of a registered
4 company's officers, or bond or insurance of not more than
5 twenty-five dollars (\$25) for each change.

6 (q) A fee for approval of continuing education
7 providers of not more than fifty dollars (\$50).

8 (r) A pesticide use report filing fee of not more than
9 five dollars (\$5) for each pesticide use report or
10 combination of use reports representing a registered
11 structural pest control company's total county pesticide
12 use for the month.

13 (s) A fee for approval of continuing education courses
14 of not more than twenty-five dollars (\$25).

15 (t) (1) Any person who pays a fee pursuant to
16 subdivision (s) shall, in addition, pay a fee of two dollars
17 (\$2) for each pesticide use stamp purchased from the
18 board. Notwithstanding any other provision of law, the
19 fee established pursuant to this subdivision shall be
20 deposited with a bank or other depository approved by
21 the Department of Finance and designated by the
22 Research Advisory Panel or into the Structural Pest
23 Control Research Fund which is hereby created and
24 continuously appropriated to be used only for structural
25 pest control research. If the Research Advisory Panel
26 designates that the fees be deposited in an account other
27 than the Structural Pest Control Research Fund, any
28 moneys in the fund shall be transferred to the designated
29 account.

30 (2) Prior to the deposit of any funds, the depository
31 shall enter into an agreement with the Department of
32 Consumer Affairs that includes, but is not limited to, all
33 of the following requirements:

34 (A) The depository shall serve as custodian for the
35 safekeeping of the funds.

36 (B) Funds deposited in the designated account shall
37 be encumbered solely for the exclusive purpose of
38 implementing and continuing the program for which
39 they were collected.

1 (C) Funds deposited in the designated account shall
2 be subject to an audit at least once every two years by an
3 auditor selected by the Director of Consumer Affairs. A
4 copy of the audit shall be provided to the director within
5 30 days of completion of the audit.

6 (D) The Department of Consumer Affairs shall be
7 reimbursed for all expenses it incurs that are reasonably
8 related to implementing and continuing the program for
9 which the funds were collected in accordance with the
10 agreement.

11 (E) A reserve in an amount sufficient to pay for costs
12 arising from unanticipated occurrences associated with
13 administration of the program shall be maintained in the
14 designated account.

15 (3) A charge for administrative expenses of the board
16 in an amount not to exceed 5 percent of the amount
17 collected and deposited in the Structural Pest Control
18 Research Fund may be assessed against the fund. The
19 charge shall be limited to expenses directly related to the
20 administration of the fund.

21 (4) The board shall, by regulation, establish a
22 five-member research advisory panel including, but not
23 limited to, representatives from each of the following: (1)
24 the Structural Pest Control Board, (2) the structural pest
25 control industry, (3) the Department of Pesticide
26 Regulation, and (4) the University of California. The
27 panel shall solicit and review research proposals for
28 recommendation to the board. The board shall distribute
29 funds to qualified applicants, pursuant to the panel's
30 recommendation, upon a two-thirds vote.

31 SEC. 10.11. Section 8674.5 of the Business and
32 Professions Code is amended to read:

33 8674.5. (a) There is hereby created in the State
34 Treasury a special fund known as the Structural Pest
35 Control Device Fund. Each person who pays a license fee
36 pursuant to this chapter, in addition, shall pay a fee of
37 twenty-five cents (\$0.25) for each property address
38 reported. Funds derived from the additional twenty-five
39 cents (\$0.25) shall be deposited in the Structural Pest
40 Control Device Fund.



1 (b) Five percent of the amount collected and
2 deposited in the Structural Pest Control Device Fund
3 shall be available to the board for administrative costs
4 upon appropriation in the annual Budget Act. The
5 balance in the fund is hereby continuously appropriated
6 to the Department of Pesticide Regulation for costs
7 incurred by that department pursuant to Chapter 7.5
8 (commencing with Section 15300) of Division 7 of the
9 Food and Agricultural Code.

10 (c) This section shall remain in effect only until
11 January 1, 2002, and as of that date is repealed, unless a
12 later enacted statute that is enacted before January 1,
13 2002, deletes or extends that date.

14 SEC. 10.12. Section 8698 of the Business and
15 Professions Code is amended to read:

16 8698. The Director of the Department of Pesticide
17 Regulation shall be designated by the board as its agent
18 for the purposes of carrying out Section 8698.1. The Los
19 Angeles County Agricultural Commissioner or the
20 Orange County Agricultural Commissioner, or both, may
21 contract with the director to perform increased
22 structural fumigation, inspection, and enforcement
23 activities. These activities shall be funded by the moneys
24 collected pursuant to this chapter.

25 SEC. 10.13. Section 8698.1 of the Business and
26 Professions Code is amended to read:

27 8698.1. (a) If the county has contracted pursuant to
28 Section 8698, any person who performs a structural
29 fumigation in Los Angeles County or Orange County
30 shall pay to the county agricultural commissioner a fee of
31 five dollars (\$5) for each treatment conducted at a
32 specific building or structure.

33 (b) The fees shall be submitted by the 10th day of the
34 month following the month in which the treatment was
35 performed. The fees shall be accompanied by a copy of a
36 monthly pesticide use report showing the addresses,
37 including the department number if applicable, of all
38 structural fumigations. The report shall be in a form
39 required by the director, identify the name and address

1 of the person or company performing the fumigation, and
2 include any other information requested by the director.

3 SEC. 10.14. Section 8698.5 of the Business and
4 Professions Code is amended to read:

5 8698.5. Any funds collected pursuant to this chapter
6 shall be paid to the county and used for the sole purposes
7 of funding enforcement and training activities directly
8 related to the structural fumigation project created
9 pursuant to Section 8698.

10 SEC. 10.15. Section 8698.6 of the Business and
11 Professions Code is amended to read:

12 8698.6. This chapter shall remain in effect only until
13 July 1, 2003, and as of that date is repealed, unless a later
14 enacted statute, which is chaptered before July 1, 2003,
15 deletes or extends that date.

16 SEC. 10.16. Section 8747.5 is added to the Business and
17 Professions Code, to read:

18 8747.5. (a) The board shall issue, upon application
19 and payment of the fee established by Section 8805, a
20 retired license to a land surveyor who has been licensed
21 by the board for a minimum of five years within
22 California, and a minimum of 20 years within the United
23 States or territories of the United States, and who holds a
24 license that is not suspended, revoked, or otherwise
25 disciplined, or subject to pending discipline under this
26 chapter.

27 (b) The holder of a retired license issued pursuant to
28 this section shall not engage in any activity for which an
29 active land surveyor's license is required. A land surveyor
30 holding a retired license shall be permitted to use the
31 titles "retired professional land surveyor" or
32 "professional land surveyor, retired."

33 (c) The holder of a retired license shall not be required
34 to renew that license.

35 (d) In order for the holder of a retired license issued
36 pursuant to this section to restore his or her license to
37 active status, he or she shall pass the examination that is
38 required for initial licensure with the board.

39 SEC. 10.17. Section 8780 of the Business and
40 Professions Code is amended to read:

1 8780. By a majority vote, the board may suspend for
2 a period not to exceed two years, or revoke the license or
3 certificate of any licensed land surveyor or registered
4 civil engineer, respectively, licensed under this chapter
5 or registered under the provisions of Chapter 7
6 (commencing with Section 6700) of Division 3, whom it
7 finds to be guilty of:

8 (a) Any fraud, deceit, misrepresentation, negligence,
9 or incompetency in his or her practice of land surveying.

10 (b) Any fraud or deceit in obtaining his or her license.

11 (c) Any violation of any provision of this chapter or of
12 any other law relating to or involving the practice of land
13 surveying.

14 (d) Any conviction of a crime substantially related to
15 the qualifications, functions and duties of a land surveyor.
16 The record of the conviction shall be conclusive evidence
17 thereof.

18 (e) Aiding or abetting any person in the violation of
19 any provision of this chapter.

20 (f) A breach of contract in connection with the
21 practice of land surveying.

22 SEC. 10.18. Section 8792 of the Business and
23 Professions Code is amended to read:

24 8792. Every person is guilty of a misdemeanor:

25 (a) Who, unless he is exempt from licensing under this
26 chapter, practices, or offers to practice, land surveying in
27 this state without legal authorization.

28 (b) Who presents as his own, the license of another.

29 (c) Who attempts to file as his own any record of
30 survey under the license of another.

31 (d) Who gives false evidence of any kind to the board,
32 or to any member, in obtaining a license.

33 (e) Who impersonates or uses the seal of a professional
34 land surveyor.

35 (f) Who uses an expired or revoked license.

36 (g) Who violates any provision of this chapter.

37 SEC. 10.19. Section 8805 of the Business and
38 Professions Code is amended to read:

1 8805. The amount of the fees prescribed by this
2 chapter shall be fixed by the board in accordance with the
3 following schedule:

4 (a) The fee for filing each application for licensure as
5 a land surveyor at not more than one hundred
6 seventy-five dollars (\$175), and for each application for
7 certification as a land surveyor-in-training (LSIT) at not
8 more than sixty dollars (\$60).

9 (b) The temporary registration fee for a land surveyor
10 at not more than 25 percent of the application fee in effect
11 on the date of application.

12 (c) The renewal fee for a land surveyor at not more
13 than the application fee.

14 (d) The fee for a retired license at not more than 50
15 percent of the professional land surveyor application fee
16 in effect on the date of application.

17 (e) The delinquency fee at not more than 50 percent
18 of the renewal fee in effect on the date of reinstatement.

19 (f) The board shall establish by regulation an appeal
20 fee for examination. The regulation shall include
21 provisions for an applicant to be reimbursed the appeal
22 fee if the appeal results in passage of examination. The fee
23 shall be no more than the costs incurred by the board.

24 (g) All other document fees are to be set by the board
25 by rule.

26 SEC. 11. Section 9884 of the Business and Professions
27 Code is amended to read:

28 9884. (a) An automotive repair dealer shall pay the
29 fee required by this chapter for each place of business
30 operated by the dealer in this state and shall register with
31 the director upon forms prescribed by the director. The
32 forms shall contain sufficient information to identify the
33 automotive repair dealer, including name, address of
34 each location, a statement by the dealer that each location
35 is in an area that, pursuant to local zoning ordinances,
36 permits the operation of a facility for the repair of motor
37 vehicles, the dealer's retail seller's permit number, if a
38 permit is required under the Sales and Use Tax Law (Part
39 1 (commencing with Section 6001), Division 2, Revenue
40 and Taxation Code), and other identifying data that are

1 prescribed by the director. If the business is to be carried
2 on under a fictitious name, the fictitious name shall be
3 stated. To the extent prescribed by the director, an
4 automotive repair dealer shall identify the owners,
5 directors, officers, partners, members, trustees,
6 managers, and any other persons who directly or
7 indirectly control or conduct the business. The forms shall
8 include a statement signed by the dealer under penalty
9 of perjury that the information provided is true.

10 (b) A state agency is not authorized or required by this
11 section to enforce a city, county, regional, air pollution
12 control district, or air quality management district rule or
13 regulation regarding the site or operation of a facility that
14 repairs motor vehicles.

15 SEC. 12. Section 803 of the Penal Code is amended to
16 read:

17 803. (a) Except as provided in this section, a
18 limitation of time prescribed in this chapter is not tolled
19 or extended for any reason.

20 (b) No time during which prosecution of the same
21 person for the same conduct is pending in a court of this
22 state is a part of a limitation of time prescribed in this
23 chapter.

24 (c) A limitation of time prescribed in this chapter does
25 not commence to run until the discovery of an offense
26 described in this subdivision. This subdivision applies to
27 an offense punishable by imprisonment in the state
28 prison, a material element of which is fraud or breach of
29 a fiduciary obligation, the commission of the crimes of
30 theft or embezzlement upon an elder or dependent
31 adult, or the basis of which is misconduct in office by a
32 public officer, employee, or appointee, including, but not
33 limited to, the following offenses:

34 (1) Grand theft of any type, forgery, falsification of
35 public records, or acceptance of a bribe by a public official
36 or a public employee.

37 (2) A violation of Section 72, 118, 118a, 132, or 134.

38 (3) A violation of Section 25540, of any type, or Section
39 25541 of the Corporations Code.

1 (4) A violation of Section 1090 or 27443 of the
2 Government Code.

3 (5) Felony welfare fraud or Medi-Cal fraud in violation
4 of Section 11483 or 14107 of the Welfare and Institutions
5 Code.

6 (6) Felony insurance fraud in violation of Section 548
7 or 550 of this code or former Section 1871.1, or Section
8 1871.4, of the Insurance Code.

9 (7) A violation of Section 580, 581, 582, 583, or 584 of the
10 Business and Professions Code.

11 (8) A violation of Section 22430 of the Business and
12 Professions Code.

13 (9) A violation of Section 10690 of the Health and
14 Safety Code.

15 (10) A violation of Section 529a.

16 (11) A violation of subdivision ~~(e)~~ (d) or (e) of Section
17 368.

18 (d) If the defendant is out of the state when or after the
19 offense is committed, the prosecution may be
20 commenced as provided in Section 804 within the
21 limitations of time prescribed by this chapter, and no time
22 up to a maximum of three years during which the
23 defendant is not within the state shall be a part of those
24 limitations.

25 (e) A limitation of time prescribed in this chapter does
26 not commence to run until the offense has been
27 discovered, or could have reasonably been discovered,
28 with regard to offenses under Division 7 (commencing
29 with Section 13000) of the Water Code, under Chapter 6.5
30 (commencing with Section 25100) of, Chapter 6.7
31 (commencing with Section 25280) of, or Chapter 6.8
32 (commencing with Section 25300) of, Division 20 of, or
33 Part 4 (commencing with Section 41500) of Division 26 of,
34 the Health and Safety Code, or under Section 386, or
35 offenses under Chapter 5 (commencing with Section
36 2000) of Division 2 of, Chapter 9 (commencing with
37 Section 4000) of Division 2 of, Chapter 10 (commencing
38 with Section 7301) of Division 3 of, or Chapter 19.5
39 (commencing with Section 22440) of Division 8 of, the
40 Business and Professions Code.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a “responsible adult” or “agency” means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a responsible adult or agency after January

1 1, 1990, and a complaint or indictment was filed within the
2 time period specified in this subdivision, but the
3 indictment, complaint, or subsequently filed information
4 was dismissed, but a new complaint or indictment is or
5 was filed no later than 180 days after the date on which
6 either a published opinion of the California Supreme
7 Court, deciding whether retroactive application of this
8 section is constitutional, becomes final or the United
9 States Supreme Court files an opinion deciding the
10 question of whether retroactive application of this
11 subdivision is constitutional, whichever occurs first.

12 (B) (i) If the victim made the report required by this
13 subdivision to a responsible adult or agency after January
14 1, 1990, and a complaint or indictment was filed within the
15 time period specified in this subdivision, but the
16 indictment, complaint, or subsequently filed information
17 was dismissed, a new complaint or indictment may be
18 filed notwithstanding any other provision of law,
19 including, but not limited to, subdivision (c) of Section
20 871.5 and subdivision (b) of Section 1238.

21 (ii) An order dismissing an action filed under this
22 subdivision, which is entered or becomes effective at any
23 time prior to 180 days after the date on which either a
24 published opinion of the California Supreme Court,
25 deciding the question of whether retroactive application
26 of this section is constitutional, becomes final or the
27 United States Supreme Court files an opinion deciding
28 the question of whether retroactive application of this
29 subdivision is constitutional, whichever occurs first, shall
30 not be considered an order terminating an action within
31 the meaning of Section 1387.

32 (iii) Any ruling regarding the retroactivity of this
33 subdivision or its constitutionality made in the course of
34 the previous proceeding, including any review
35 proceeding, shall not be binding upon refiling.

36 (g) (1) Notwithstanding any other limitation of time
37 described in this chapter, a criminal complaint may be
38 filed within one year of the date of a report to a California
39 law enforcement agency by a person of any age alleging
40 that he or she, while under the age of 18 years, was the

1 victim of a crime described in Section 261, 286, 288, 288a,
2 288.5, 289, or 289.5.

3 (2) This subdivision applies only if both of the
4 following occur:

5 (A) The limitation period specified in Section 800 or
6 801 has expired.

7 (B) The crime involved substantial sexual conduct, as
8 described in subdivision (b) of Section 1203.066,
9 excluding masturbation that is not mutual, and there is
10 independent evidence that clearly and convincingly
11 corroborates the victim's allegation. No evidence may be
12 used to corroborate the victim's allegation that otherwise
13 would be inadmissible during trial. Independent
14 evidence does not include the opinions of mental health
15 professionals.

16 (3) (A) This subdivision applies to a cause of action
17 arising before, on, or after January 1, 1994, the effective
18 date of this subdivision, and it shall revive any cause of
19 action barred by Section 800 or 801 if any of the following
20 occurred or occurs:

21 (i) The complaint or indictment was filed on or before
22 January 1, 1997, and it was filed within the time period
23 specified in this subdivision.

24 (ii) The complaint or indictment is or was filed
25 subsequent to January 1, 1997, and it is or was filed within
26 the time period specified within this subdivision.

27 (iii) The victim made the report required by this
28 subdivision to a law enforcement agency after January 1,
29 1994, and a complaint or indictment was not filed within
30 the time period specified in this subdivision, but a
31 complaint or indictment is filed no later than 180 days
32 after the date on which either a published opinion of the
33 California Supreme Court, deciding the question of
34 whether retroactive application of this subdivision is
35 constitutional, becomes final or the United States
36 Supreme Court files an opinion deciding the question of
37 whether retroactive application of this subdivision is
38 constitutional, whichever occurs first.

39 (iv) The victim made the report required by this
40 subdivision to a law enforcement agency after January 1,

1 1994, and a complaint or indictment was filed within the
2 time period specified in this subdivision, but the
3 indictment, complaint, or subsequently filed information
4 was dismissed, but a new complaint or indictment is filed
5 no later than 180 days after the date on which either a
6 published opinion of the California Supreme Court,
7 deciding the question of whether retroactive application
8 of this subdivision is constitutional, becomes final or the
9 United States Supreme Court files an opinion deciding
10 the question of whether retroactive application of this
11 subdivision is constitutional, whichever occurs first.

12 (B) (i) If the victim made the report required by this
13 subdivision to a law enforcement agency after January 1,
14 1994, and a complaint or indictment was filed within the
15 time period specified in this subdivision, but the
16 indictment, complaint, or subsequently filed information
17 was dismissed, a new complaint or indictment may be
18 filed notwithstanding any other provision of law,
19 including, but not limited to, subdivision (c) of Section
20 871.5 and subdivision (b) of Section 1238.

21 (ii) An order dismissing an action filed under this
22 subdivision, which is entered or becomes effective at any
23 time prior to 180 days after the date on which either a
24 published opinion of the California Supreme Court,
25 deciding the question of whether retroactive application
26 of this section is constitutional, becomes final or the
27 United States Supreme Court files an opinion deciding
28 the question of whether retroactive application of this
29 subdivision is constitutional, whichever occurs first, shall
30 not be considered an order terminating an action within
31 the meaning of Section 1387.

32 (iii) Any ruling regarding the retroactivity of this
33 subdivision or its constitutionality made in the course of
34 the previous proceeding, by any trial court or any
35 intermediate appellate court, shall not be binding upon
36 refiling.

37 SEC. 13. Section 22250 of the Business and Professions
38 Code is amended to read:

39 22250. (a) A tax preparer shall maintain a bond
40 issued by a surety company admitted to do business in this

1 state for each individual preparing tax returns for another
2 person. The principal sum of the bond shall be five
3 thousand dollars (\$5,000). A tax preparer subject to this
4 section shall provide to the surety company proof that the
5 individual is at least 18 years of age before a surety bond
6 may be issued.

7 (b) The bond required by this section shall be in favor
8 of, and payable to, the people of the State of California
9 and shall be for the benefit of any person or persons
10 damaged by any fraud, dishonesty, misstatement,
11 misrepresentation, deceit, or any unlawful acts or
12 omissions by the tax preparer, or the tax preparers
13 employed or associated with it to provide tax preparation
14 services.

15 (c) The tax preparer filing the bond shall identify all
16 tax preparers employed or associated with the tax
17 preparer and shall provide for each employee or associate
18 the evidence required by subdivision (a) to the surety
19 company. A tax preparer employed or associated with a
20 tax preparer shall be covered by the bond of the tax
21 preparer with which he or she is employed or associated.
22 However, in no event shall the total bond required for any
23 single tax preparer and the tax preparers employed or
24 associated with it be required to exceed one hundred
25 twenty-five thousand dollars (\$125,000). The aggregate
26 liability of the surety to any and all persons regardless of
27 the number of claims against the bond or the number of
28 years the bond remains in force shall not exceed five
29 thousand dollars (\$5,000) for any one tax preparer. Any
30 revision of the bond amount shall not be cumulative. The
31 liability of the surety on the bond shall not include
32 payment of any civil penalties, fines, attorneys' fees, or
33 any other cost provided by statute or regulation.

34 (d) The tax preparer shall file an amendment to the
35 bond within 30 days of a change in information contained
36 in the bond, including a change in the tax preparers
37 employed or associated with the tax preparer.

38 (e) (1) A tax preparer may not conduct business
39 without having a current surety bond in the amount
40 prescribed by this section.

(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to the tax preparer and the California Tax Education Council, identifying the bond and the date of cancellation or termination.

(3) If a tax preparer fails to obtain a new bond by the effective date of the cancellation or termination of the former bond, the tax preparer shall cease to conduct business until that time as a new surety bond is obtained.

(f) Notwithstanding Section 995.710 of the Code of Civil Procedure, a tax preparer may not make a deposit in lieu of bond.

(g) A tax preparer shall furnish evidence of the bond required by this section upon the request of any state, federal agency or any law enforcement agency or the California Tax Education Council.

SEC. 14. Section 22251 of the Business and Professions Code is amended to read:

22251. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), “tax preparer” includes:

(A) A person who, for a fee, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. A person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with, or employment by, another tax preparer.

(B) A corporation, partnership, association, or other entity that has associated with it persons not exempted under Section 22258, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or that holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), “tax preparer” does not include an employee who, as part of the regular

1 clerical duties of his or her employment, prepares his or
2 her employer's income, sales, or payroll tax returns.

3 (b) "Tax return" means a return, declaration,
4 statement, refund claim, or other document required to
5 be made or filed in connection with state or federal
6 income taxes or state bank and corporation franchise
7 taxes.

8 (c) An "approved curriculum provider," for purposes
9 of basic instruction as described in subdivision (a) of
10 Section 22255, and continuing education as described in
11 subdivision (b) of Section 22255, is one who has been
12 approved by the council as defined in subdivision (d), or
13 by the Bureau for Private Postsecondary and Vocational
14 Education under Chapter 7 (commencing with Section
15 94700) of Part 59 of Division 10 of the Education Code. A
16 curriculum provider who is approved by the tax
17 education council is exempt from Chapter 7
18 (commencing with Section 94700) of Part 59 of Division
19 10 of the Education Code.

20 (d) "Council" means the California Tax Education
21 Council which is a single organization made up of not
22 more than one representative from each professional
23 society, association, or other entity operating as a
24 California nonprofit corporation which chooses to
25 participate in the council and which represents tax
26 preparers, enrolled agents, attorneys, or certified public
27 accountants with a membership of at least 200 for the last
28 three years, and not more than one representative from
29 each for-profit tax preparation corporation which chooses
30 to participate in the council and which has at least 200
31 employees and has been operating in California for the
32 last three years.

33 SEC. 15. Section 22253 of the Business and Professions
34 Code is amended to read:

35 22253. It is a violation of this chapter for a tax preparer
36 to do any of the following:

37 (a) Make, or authorize the making of, any statement
38 or representation, oral or written or recorded by any
39 means, which is intended to induce persons to use the tax

1 preparation service of the tax preparer, which statement
2 or representation is fraudulent, untrue, or misleading.

3 (b) Obtain the signature of a customer to a tax return
4 or authorizing document which contains blank spaces to
5 be filled in after it has been signed.

6 (c) Fail or refuse to give a customer, for his or her own
7 records, a copy of any document requiring the customer's
8 signature, within a reasonable time after the customer
9 signs such document.

10 (d) Fail to maintain a copy of any tax return prepared
11 for a customer for four years from the date of completion
12 or the due date of the return, whichever is later.

13 (e) Engage in advertising practices which are
14 fraudulent, untrue, or misleading, including, but not
15 limited to, assertions that the bond required by Section
16 22250 in any way implies licensure or endorsement of a
17 tax preparer by the State of California.

18 (f) Violate Section 17530.5.

19 (g) Violate Section 7216 of Title 26 of the United States
20 Code.

21 (h) Fail to sign a customer's tax return when payment
22 for services rendered has been made.

23 (i) Fail to return, upon the demand by or on behalf of
24 a customer, records or other data provided to the tax
25 preparer by the customer.

26 (j) Knowingly give false or misleading information to
27 the consumer pursuant to Section 22252, or give false or
28 misleading information to the surety company pursuant
29 to subdivision (a) of Section 22250, or give false or
30 misleading information to the California Tax Education
31 Council pursuant to Section 22255.

32 SEC. 16. Section 22254 of the Business and Professions
33 Code is amended to read:

34 22254. A provider of tax preparer education for tax
35 preparers shall meet standards and procedures as
36 approved by the council, or by the Bureau for Private
37 Postsecondary and Vocational Education. The council
38 shall either approve or decline to approve providers of tax
39 preparer education within 120 days of receiving a request
40 for approval. If approval is not declined within 120 days,

1 the provider shall be deemed approved. A listing of those
2 providers approved by the council shall be made
3 available to tax preparers upon request.

4 SEC. 17. Section 22255 of the Business and Professions
5 Code is amended to read:

6 22255. (a) The council shall issue a “certificate of
7 completion” to the tax preparer when the tax preparer
8 demonstrates that he or she has (1) completed not less
9 than 60 hours of instruction in basic personal income tax
10 law, theory, and practice by an approved curriculum
11 provider within the previous 18 months; and (2) provides
12 evidence of compliance with the bonding requirement of
13 Section 22250, including the name of the surety company,
14 the bond number, and the bond expiration date.

15 (b) A tax preparer shall complete on an annual basis
16 not less than 20 hours of continuing education, including
17 12 hours in federal taxation, four hours in California
18 taxation and an additional four hours in either federal or
19 California taxation from an approved curriculum
20 provider. The council shall issue annually a “statement of
21 compliance” when the tax preparer demonstrates that he
22 or she has (1) completed the required 20 hours of
23 continuing education, and (2) provides evidence of
24 compliance with the bonding requirement of Section
25 22250, including the name of the surety company, the
26 bond number, and the bond expiration date.

27 (c) An individual who possesses a minimum of two
28 recent years experience in the preparation of personal
29 income tax returns may petition the council to review the
30 experience and determine if it is the equivalent of the
31 required qualifying education. The council may provide
32 that individual with a “certificate of completion” if it is
33 determined that the experience is the equivalent of the
34 required hours. Tax preparation performed in situations
35 that violate this chapter, by an individual who is neither
36 registered nor exempted, may not be used toward the
37 qualifying experience needed for registration as a tax
38 preparer.

39 SEC. 18. No reimbursement is required by this act
40 pursuant to Section 6 of Article XIII B of the California

1 Constitution because the only costs that may be incurred
2 by a local agency or school district will be incurred
3 because this act creates a new crime or infraction,
4 eliminates a crime or infraction, or changes the penalty
5 for a crime or infraction, within the meaning of Section
6 17556 of the Government Code, or changes the definition
7 of a crime within the meaning of Section 6 of Article
8 XIII B of the California Constitution.

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